

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GERALD EUGENE KENNEDY,

Defendant.

CR 18-27-M-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on October 30, 2018. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Gerald Eugene Kennedy’s guilty plea after Kennedy appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of possession

with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1) as set forth in Count II of the Indictment. Defendant further agrees to the forfeiture allegation in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Count I of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 45), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Gerald Eugene Kennedy's motion to change plea (Doc. 38) is GRANTED and Gerald Eugene Kennedy is adjudged guilty as charged in Count II of the Indictment.

DATED this 26th day of November, 2018.



Dana L. Christensen, Chief District Judge
United States District Court